

OFFICE OF CONSERVATION
STATE OF LOUISIANA

IN RE:
GROUND WATER MANAGEMENT
COMMISSION MEETING

REPORT OF MEETING
HELD AT
BATON ROUGE, LOUISIANA
AUGUST 17, 2001

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COMMISSION MEETING

Report of the public meeting held by the Ground
Water Management Commission, State of Louisiana, on
August 17, 2001, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman
Philip Asprodites, Commissioner of Conservation
Len Bahr, Governor's Office of Coastal Affairs
Zahir "Bo" Bolourchi, Secretary, DOTD
George Cardwell, Capital Area Ground Water Commission
Richard Durrett, Sparta Groundwater Conservation Dist.
Peggy Gantt, Louisiana Municipal Association
Steve Chustz, for Dale Givens, Secretary, DEQ
Mark Wilson, Assistant Secretary, DHH
Fulbert Leon Namwamba, Geologist
Brad Spicer, Agriculture & Forestry
John Roussel, Secretary, Wildlife & Fisheries
Linda Zaunbrecher, Farm Bureau Member

GROUND WATER MANAGEMENT COMMISSION
AUGUST 17, 2001
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COMMISSIONER GAUTREAUX:

I'm Karen Gautreaux. Welcome to our second Ground Water Management Commission meeting. I think all of our Ground Water Commission members are here, and I thank you for coming again. Some of you had a little distance to drive.

We have a little different setup with the mikes today. If you notice pressing one button, the top button if you would like to speak and then turn it off. That will avoid feedback in the mike system and it will be easier on the court reporter. Speaking of, while our court reporter is becoming familiar with the different members of the Commission, if you can remember to introduce yourselves -- I'm probably the worst one -- or identify yourselves as you begin to speak. And also, if we have members of the audience that want to make remarks at the appropriate time, we will ask you to come down to the mike, introduce yourself, and make your comments.

With that I will just go around so that the Ground Water Management Commission members can identify themselves for the record. Again, I'm Karen Gautreaux with Governor Foster's office.

COMMISSIONER ASPRODITES:

Philip Asprodites, Commissioner of Conservation.

COMMISSIONER GANTT:

Peggy Gantt, representing Louisiana Municipal Association.

MR. CHUSTZ:

Steve Chustz, designee for Dale Givens, Department of Environmental Quality.

COMMISSIONER CARDWELL:

George Cardwell, representing the Capital Area Ground Water Commission.

COMMISSIONER BAHR:

I'm Len Bahr with the Governor's Office of Coastal Activities.

COMMISSIONER BOLOURCHI:

I'm Bo Bolourchi representing the Department of Transportation and Development.

COMMISSIONER NAMWAMBA:

Fulbert Namwamba, geologist engineer of Southern University.

COMMISSIONER SPICER:

Brad Spicer, representing Commissioner Bob Odom, Louisiana Department of Agriculture and Forestry.

COMMISSIONER DURRETT:

Richard Durrett, representing the Sparta Groundwater Commission.

COMMISSIONER ROUSSEL:

John Roussel, Assistant Secretary for Wildlife and Fisheries representing Secretary Jenkins.

COMMISSIONER ZAUNBRECHER:

Linda Zaunbrecher, representing Louisiana Farm Bureau.

COMMISSIONER GAUTREAUX:

Thank you. I think Mark Wilson was going to be representing Department of Health and Hospitals today. Is Mark -- he'll be joining us, I'm sure. Oh, come on up. Mark Wilson.

MR. WILSON:

I'm Mark Wilson representing DHH as the designee for Jimmy Guidry.

COMMISSIONER GAUTREAUX:

If you will recall at our first meeting we discussed the Draft Scope of Services and the Draft Emergency Rules for the hearing procedure. Well, the Scope of Services was for the preparation of the Comprehensive Statewide Water Management System. Some of you have sent comments. We did receive some comments during the Commission meeting. And the Staff of the Office of Conservation has compiled the comments we've discussed, and Anthony Duplechin is going to present the copy that we're going to be working from today.

COMMISSIONER ASPRODITES:

You want Tony to simply go through the Scope of Services for the Commission?

COMMISSIONER GAUTREAUX:

Scope of Services, yes, first, please.

MR. DUPLCHIN:

Thank you. I have placed a folder at each of your places containing four items: a copy of Senate Bill 965 which became the Act; a copy of the Draft Scope of Services; the Draft Rules of Procedure; and a copy of some issues that the Staff would like to recommend to the Commission today. Do you want to go over Scope of Services first?

COMMISSIONER GAUTREAUX:

Please.

MR. DUPLCHIN:

At our last meeting a couple of weeks ago, Secretary Givens from DEQ recommended that we expand somewhat on the Scope of Services that we had presented to the Commission at that time. We met with some of the people at DEQ, and as a result have revised the Scope of Services, and I will go through and highlight some of the major parts of it that have changed. I would like to apologize for e-mailing out the previous version of the Scope of Services last week.

COMMISSIONER ASPRODITES:

You might want to note so that the Commission will recall that the Scope of Services is designed to allow us to contract with a consultant to prepare or begin the process of preparing a groundwater management plan for the State, and to serve as additional staff to the Commission.

MR. DUPLCHIN:

Thank you. One of Secretary Givens' suggestions

was that we expand on the bulleted items in the previous Scope of Services that we had presented. So we rearranged the format of the Draft Scope of Services, and instead of going through the bulleted items that would have to be addressed and then giving a part 1 and part 2 of the plan, we went ahead and put part 1 first, which says, Part 1 will identify the State's water resources and assess their current use and general scientific geology, hydrology, ecology, information available to, but not limited to, the following tasks, and we took the bullets out that we felt related to that part of the plan. Those bullets are, as you can read, a general evaluation of the State's groundwater resources including current and projected demands, aerial extent, recharge areas, historical groundwater use, water quality on the major aquifers of the State as obtained from existing publications; a determination of data necessary to manage the State's water resources and the sources of such data; identification of the data necessary to determine sustainability of each major aquifer, and predict critical groundwater areas; development of alternatives to groundwater use; and an evaluation of the State surface water resources available for development.

Part 2 of the plan will establish considerations, guidelines, and procedures for the effective management of the state's water resources and data collection to include, but not be limited to, the following tasks: a general evaluation of the use of surface water, recycling of used or treated waters, identification and development of surface water projects to meet current and future demands as obtained from existing publications; evaluate incentives and alternative technologies for conservation of water resources; development of an emergency use and contingency plan; development of an education and conservation program; development of a program to provide mitigation for loss of groundwater resources, and incentives to transfer from groundwater sources to surface or alternative sources where such transfer will not harm those surface water sources; identification of areas where inter-jurisdictional relationships will be necessary; designation of the appropriate state entity structure to manage and protect the state's water resources; and identification of legal issues that needed to be addressed.

We then went on to give criteria for designation of critical groundwater areas. This is pretty much the same way that it was in the previous copy that you had been given. We took the contact grid out that we had in before listing individuals to be contacted for more information, and just put in a statement that a resource list of contacts to assist the contractor with general information regarding information and technical interviews will be provided.

We also included a set list of deliverables that the contractor will have to provide to the Commission, along with dates that they will have to be provided by. They are: first quarterly presentation to the Commission no later than March 31, 2002; a draft of part 1 of the plan in April, 2002; a second quarterly presentation to the Commission no later than June 30, 2002; a third-quarter presentation to the Commission no later than September 30, 2002, -- 31, 30, I didn't think there were 31 days -- a draft of part 2 in October, 2002; a final presentation to the Commission during the week of December 3, 2002; and then submission of the final plan, parts 1 and 2, on December 21, 2002.

COMMISSIONER GAUTREAUX:

Thank you, Tony. First I would like to ask the Commission members if there are any questions as a result of the changes.

COMMISSIONER ZAUNBRECHER:

Linda Zaunbrecher. The submittal requirements I understand, but is there any provision for interaction between the Task Force and the Commission and the contractor intermittently during this time?

MR. DUPLECHIN:

Yes, ma'am. On page 1, the third to last paragraph, we have a statement saying the contractor will provide periodic briefings to the Commission. And if you want us to reword that to where we can initiate the briefings, we can work with that.

COMMISSIONER ZAUNBRECHER:

I would appreciate that. I had understood that the advisory -- the Task Force would be some kind of advisory to everybody and would be working with the contractor, possibly, or with the Commission.

MR. DUPLECHIN:

The Task Force may -- members of the Task Force will be listed as the resource contact.

COMMISSIONER ZAUNBRECHER:

As resource contacts?

MR. DUPLECHIN:

Yes, ma'am.

COMMISSIONER ZAUNBRECHER:

For regular meetings or just at the contractor's request?

MR. DUPLECHIN:

We had originally intended just to put it in at the contractor's request, but if you want to have more periodic meetings than we have scheduled --

COMMISSIONER ZAUNBRECHER:

That was what I thought the initial plan was.

COMMISSIONER GAUTREAUX:

I think, Linda, we do want the Task Force to be an integral part of this whole process. We don't necessarily want the contractor answering to the Task Force. We probably want them so that -- we need to maybe structure this in a way where it's understood

that the Task Force will get briefed as well. And probably for those meetings we would have a joint meeting of the Commission and the Task Force. Now, if we need to put it explicitly somehow, we just don't want to make it confusing in terms of answering to two --

COMMISSIONER ZAUNBRECHER:

I appreciate that, but you've probably talked with some of the people who have talked to me already, and there are some concerns that we need the Task Force more involved.

COMMISSIONER GAUTREAUX:

Oh, we absolutely do. They are going to be an integral part of the whole process. We'll just put Commission and Task Force for the briefings. How about if we insert "and Advisory Task Force" after "periodic briefings to the Commission"? So we will just insert after "Commission" on page 1, "The contractor will provide periodic briefings to the Commission and Advisory Task Force." Did you have any other comments, Linda?

COMMISSIONER ZAUNBRECHER:

Not at this point. Thank you.

COMMISSIONER GAUTREAUX:

Any other members of the Commission? Fulbert?

COMMISSIONER NAMWAMBA:

Fulbert Namwamba. I was wondering what the feedback process is after the contractor gives the briefing? Does the Commission get to crunch that information and give it time to give feedback to the contractor as the project progresses on?

COMMISSIONER ASPRODITES:

You would expect that the Commission working through the Staff would certainly do that. I don't see each of you sitting there by yourselves trying to crunch it all, but you can do it, or you work with the Staff to then make the recommendation to the Commission.

COMMISSIONER GAUTREAUX:

Typically in efforts like this, and I don't know -- I don't think it's been explicitly stated, but typically the consultant will prepare a draft at that stage of work, and then there's a comment period in the development. So it is an iterative process.

COMMISSIONER ASPRODITES:

Which is the reason to have the periodic reports so it's ongoing and we'll always know, the Commission will always know what the contractor is doing and wherever he's going if there's a problem and we can redirect him. Again, we're in a very short time period to get all of this done, and that's why we are trying to move forward.

COMMISSIONER GAUTREAUX:

Any there any other -- Fulbert, did you have anything else? Mr. Durrett?

COMMISSIONER DURRETT:

Karen, as I mentioned last time, most of this information that we're asking for here in the Sparta will have already been done. Are we going to make some notation? We don't need to do it twice.

COMMISSIONER GAUTREAUX:

No. I think what we've done is put it in the resource list, the Sparta people, rather than explicitly in this part of the Scope, they'll be listed as a resource. Any other Commission member comments? Len?

COMMISSIONER BAHR:

At the risk of repeating something that might have occurred at the last meeting that I couldn't attend, I think the -- I'm interested in part 2, what the contractor is being asked to provide. I think there's enough -- there's enough -- there's certainly enough room to include what I want to be explicit about, but was there any discussion at the last meeting of the need to specifically talk about the estuarine needs of surface water? In other words, in producing this report it would be real nice, it seems to me, to use this once more to emphasize the coastal sensitivity of these estuaries and how they need surface water. And it's not explicit in here, but --

COMMISSIONER ASPRODITES:

Why don't you let Tony answer that?

MR. DUPLÉCHIN:

There was a part that we added that I'm sorry I didn't go over earlier when I was making my presentation. On page 3 under surface water use, at the end of the paragraph we added the statement, "and the natural resources dependent on that surface water."

COMMISSIONER BAHR:

Okay.

COMMISSIONER GAUTREAUX:

That's one of the things we were thinking about, Len, especially for that phrase, the downstream. Fulbert?

COMMISSIONER NAMWAMBA:

I happen to have missed the proceedings for the conference that was on Coastal Management. Since he has raised the issue of coastal resources, I don't know if there's any overlap between the Commission that would be set there and the goals of this Commission when it touches to coastal matters.

COMMISSIONER GAUTREAUX:

I think Fulbert is referencing the transition team that Governor Foster mentioned as an outcome of the Coastal Summit. And as I understand the transition team, this will be a fairly small group of people who are going to look at the current structure of our restoration program and make recommendations as to how we can manage on a much larger scale. So there will be, I would imagine, overlap in the sense that we're talking about the same natural resources sometimes, but not to the specifics that the Ground Water Management

Commission -- there is a linkage, but I don't think it's such that it will interfere, as I understand its envision. Thank you. Any other Commission members?
COMMISSIONER ROUSSEL:

I'll ask a general question that hopefully there's an easy answer for. I've not had a chance to look at the Scope of Services relative to the Statute that created the Commission and all of the duties of the Commission and the Task Force. Is it -- are we comfortable that the Scope of Services embraces the whole requirement of the Statute in terms of developing the plan that is called for in the Statute? It has specific elements spelled out here, and there's different words, I think, used in the Scope of Services, but does it embrace the entire requirements of the Statute?

MR. DUPLECHIN:

We feel that it does. We've worked with members of both the House Staff and Senate Staff in drafting the Scope of Services.

COMMISSIONER GAUTREAUX:

Brad, I think you had a comment.

COMMISSIONER SPICER:

Yes, Brad Spicer, Department of Agriculture and Forestry. Tony, on item No. 8 on page 2, part 2, "identify legal issues to be addressed." Are we going to ask not only to identify those but to have some recommendations of how we address them? I mean, to just have a list of legal issues --

COMMISSIONER ASPRODITES:

We were actually going to discuss that today, because actually this is an ongoing document and I think the last draft was just finished a couple of hours ago. The point there is that, should we do that, and that entails having attorneys involved, and I think the contract cost that the legislature envisioned probably would not allow that, but in this process it seemed appropriate that they would identify the legal issues certainly as they arise. And the Commission can then take whatever action they feel is appropriate at that point. But as far as in the initial contract, we didn't believe it would be appropriate to put it in there at this time.

These documents are all evolving. This is simply a document to give us the opportunity to go out there and advertise for a contract. Once the party is identified, we then put a formal contract in place that will identify things perhaps a little -- in a little more detail. But this process is dynamic. It will always change, whether it's this document, the Emergency Rules of Procedure, or what we do as different people come before the Commission to request action. I know that the House and Senate committees and the Governor's office and all the other parties that have been involved in this process have an idea of what they expect to see, but as we all know, we will

see a lot of things we never expected to see. That's why it's important that this is an open process to any party, but we have to be willing to adapt to what's required.

And getting back to where we started on the legal issue, we thought it was more appropriate to have them identify them as they will arise. Through their work they will be able to identify issues that will come up, but it didn't seem appropriate at this point to put it in the Scope of Services as far as what they're going to bid on.

COMMISSIONER SPICER:

I would like a little time, if I may, to review this because I think someplace or some places in here we could probably be specific in what we want rather than just where they might think they're going to list something, we already have listed some of these issues or items, and I think we ought to be very specific in what we want them to deliver to us, rather than just a listing or something like that.

COMMISSIONER ASPRODITES:

Are you talking about from the legal standpoint or just everything?

COMMISSIONER SPICER:

No, just from data and so on. I would like a little more time to read this, another day or so, and get back with you. I don't mind acting on it today, but I'd sure like to be able to --

COMMISSIONER ASPRODITES:

The hope is that the Commission would be comfortable, and after hearing any other comments from the Advisory Board or Task Force, to move forward, but certainly in the process before any contract would be let, you could certainly have that input. But frankly, there's not a lot of time here, and I'd hate to think we'd have to wait again for another formal meeting.

COMMISSIONER SPICER:

No, I don't -- I wouldn't want to do that.

COMMISSIONER ASPRODITES:

All right, good.

COMMISSIONER GAUTREAUX:

Are there any other Commission comments? Fulbert?

COMMISSIONER NAMWAMBA:

Yes. One issue raised during the orientation meeting, and that touches on the same item No. 8 which he referred to, what the issue of property rights and who owns the water. And it's definitely a big question. I know it will be identified, but I think realistically it's not something that can be resolved instantly because it involves --

COMMISSIONER ASPRODITES:

Right.

COMMISSIONER GAUTREAUX:

That was our thought, too. And also during Task Force discussions, we mentioned, for example, one water company mentioned that they didn't think they had the

legal capability to curtail use. So this is just another type of legal issue that might be out there to be addressed. So, right, just identify them. That's why we address it in that way. Any other Commission comments? (No response.)

All right. Now, on the agenda, the way I've worded it, I intended to put in Advisory Task Force comments, and they are right after the Scope, but what I would like to do, if there's no objection from the Commission, is go ahead and take advisory comments on the Scope of Services, and then we'll take Advisory Task Force comments on the Emergency Rules after the Commission discusses them. Are there any members of the Advisory Task Force here that would like to further discuss the Scope of Services?

And we did receive comments, I'd like to note, the last portion of them from the League of Women Voters, which they requested that I have available for the audience to read, are up on the counter if you have not received them. Su, I don't know if you passed them out to the audience. I'm sorry. But I believe these address the Scope, or just general policy. And I believe we incorporated or are attempting to incorporate, address those comments. But are there any members of the Advisory Task Force that would like to come forward at this point? (No response.) Thank you.

Then we'll go ahead and move on to the Draft Emergency Rules for the Hearing Procedure for Designation of a Critical Ground Water Area. Oh, sorry, sorry.

We want to move to approve if everyone is comfortable. A little detail there. Sorry. Fulbert?
COMMISSIONER NAMWAMBA:

Just one comment. In the previous meeting I had said the title of the -- about critical groundwater wasn't clear on the way it was addressing groundwater. And just as an added note, I believe that the response may have been grounded on that mistake.

COMMISSIONER GAUTREAUX:

Thank you. Can I have a motion to approve?

COMMISSIONER BAHR:

I move.

COMMISSIONER GAUTREAUX:

Len makes the motion. Is there a second?

COMMISSIONER SPICER:

Second.

COMMISSIONER GAUTREAUX:

Brad Spicer makes the second. All in favor? (Aye.) Any opposed? (No response.) Thank you. We have approved the Draft Scope of Services.

Now we'll move on to the Draft Emergency Rules, and Tony Duplechin and Mike Killeen from the Conservation Office are going to review those with us.
MR. DUPLACHIN:

Thank you. After the last Commission meeting we

did receive several comments, as Ms. Gautreaux has said, concerning the Rules of Procedure. We incorporated a number of those comments into the Rules, and the current copy is in your packet in front of you. The first change was just changing the name of the document, which will now read "Rules of Procedure for Critical Ground Water Area Designation Hearings Before the Louisiana Ground Water Management Commission." We felt that made it reasonably clear as to exactly what would be handled by these Rules of Procedure.

The second change that we made was to add the phrase "or pumpage at current rates to potential critical groundwater area" such that it reads, "'Potential critical groundwater area' shall mean a groundwater area where drilling of new wells or pumpage at current rates could result in the creation of a critical groundwater area."

Similarly, under No. 10, "Groundwater emergency," we added the phrase "or the likelihood of excess pumping occurring" to the item which now reads "'Groundwater emergency' shall mean the depletion of a groundwater source or lack of access to a groundwater source or the likelihood of excessive pumping occurring as a result of a natural force or a manmade act".

We made a few changes to the application procedure. Under 'C' we changed it to read, "a brief description of location including parish, section, township, range, and a map which will be sufficiently clear to readily identify the location of the proposed critical groundwater area." We also added the requirement that a statement be put in the notification of intent that if an area is designated a critical groundwater area that groundwater use may be restricted.

Under 'Application' we made a few small changes, one of which was stating that in No. 4, "identification of the affected area, including its location (section, township, range, and parish) and U.S. Geological Survey topographic map of appropriate scale (1:24,000, 1:62,500, 1:100,000 or 1:250,000) or a Louisiana Department of Transportation and Development Louisiana Parish map outlining the perimeter of the area. Submittal of digital data is recommended. Digital map data in vector and/or raster formats should have supported metadata."

No. 5 was changed but it just moved the words around, but just to where it still says the same thing. And No. 6 stayed pretty much the same except that it now says, "the original published page from the official parish journal evidencing publication of Notice of Intent to apply to the Ground Water Management Commission."

Under "Critical Ground Water Designation," after the three points we just made a few small changes inserting the phrase "by the Commission" to where it reads, "using all available data presented to the

Commission, an analysis will be made by the Commission to determine if the area under consideration meets the criteria to be designated a critical groundwater area or could become a critical groundwater area."

COMMISSIONER ZAUNBRECHER:

Excuse me. Linda Zaunbrecher. I have a question on that part. Do 1 and 3 say the same thing?

MR. KILLEEN:

Ms. Zaunbrecher, Mike Killeen, Office of Conservation. I believe No. 3 really relates to an overall aquifer situation where you can demonstrate for the entirety of the aquifer or large parts of the aquifer that the use is significantly outstripping the recharge. Does that answer your question?

COMMISSIONER ZAUNBRECHER:

So it's beyond cone -- beyond the effects of coning?

MR. KILLEEN:

Right. Coning -- the coning itself wouldn't necessarily relate directly to the recharge.

COMMISSIONER ZAUNBRECHER:

So they are both necessary, is what you're telling me?

MR. KILLEEN:

Yes, ma'am, I believe so.

COMMISSIONER GAUTREAUX:

Just to clarify, Tony, it's one of the three criteria you have to meet?

MR. DUPLECHIN:

I was just going to mention that to Ms. Zaunbrecher. One of these three.

COMMISSIONER GAUTREAUX:

One of the three, correct.

MR. DUPLECHIN:

Thank you. Under 'Recordkeeping' we changed the wording slightly. It says that the Commission shall compile and maintain at the Office of Conservation a record of all public documents relating to any application filed with the Commission. The Commission shall make records available for public inspection free of charge and provide copies at a reasonable cost during all normal business hours.

Under Notice of -- we're on page 4. Under 'Notice of Hearing,' we just made a small editorial change and put the statement that the location of materials available for public inspection on the third line of the paragraph instead of where it had been on the fifth line. And we added the statement that if the Commission calls a hearing to consider action with respect to a specific aquifer and area, notice shall be given as above.

COMMISSIONER ZAUNBRECHER:

I have one question there, Tony. Under the Notice of Hearing, "Upon determination that an application is complete, the Commission shall schedule a public hearing." Could we add, "and found to have merit"?

Because on the previous page the Commission may reject and return any application determined to be without merit or frivolous. Does that -- does that hold us to a hearing even if it is frivolous?

COMMISSIONER ASPRODITES:

I assume that the assumption was that if it was frivolous, it wouldn't come up to hearing. So I think it would be a little redundant, but we can put it in.

COMMISSIONER GAUTREAUX:

So we want to insert, "upon --

COMMISSIONER ASPRODITES:

No.

COMMISSIONER GAUTREAUX:

Oh, no, you don't. Okay.

MR. DUPLECHIN:

Other editorial changes were made under 'Rules of Conduct' but do not change the way the intent and meaning of that part of the Rules.

The final part of the Draft Rules of Procedure is 'Decision' and it states, "A written decision shall be issued in the form of an order by the Commission based on scientifically sound data gathered from the application, the participants in the public hearing, and any other relevant information. The order shall contain the statement of findings, and such order will be sent to the applicant, participants in the hearing, and any other persons requesting a copy thereof."

COMMISSIONER GAUTREAUX:

Thank you, Tony. Do we have any Commission questions?

COMMISSIONER ASPRODITES:

Perhaps just one point, if I may. Again, you have to recall that the reason for these Emergency Rules of Procedure is to again set the stage so if the Commission wants to act or if some third party who has an interest wants to request the Commission to act that there is a basis on which they can move forward.

COMMISSIONER GAUTREAUX:

Thank you, Philip. John, do you have a comment?

COMMISSIONER ROUSSEL:

John Roussel. I noticed in the definition -- this is the definition for beneficial purpose or beneficial use. I couldn't find that term actually used in the Rules, but I did note that the definition of the proposed Rules differs from the Statute's definition by the inclusion of a phrase that says any other advantageous use. My question would be, what was the purpose of inserting that additional language which is not consistent with the Statute's definition?

MR. DUPLECHIN:

That part of it had come from the definition of beneficial purpose or beneficial use under the charter or the legislation that authorized Capital Area Ground Water Conservation District.

COMMISSIONER ROUSSEL:

I would suggest that we make it reflect what the

definition of the Statute is so that there's no contradiction there.

COMMISSIONER ASPRODITES:

This whole process began by simply taking the definitions that were in the Statute and putting them in here, and several comments that were made that in some areas perhaps the Statute was not as clear as it should have been, and we were requested to perhaps improve on that if we could. There are a couple of points where that occurred. One that I recall was identifying a groundwater emergency referring to a manmade accident, and the point was made, what if it was intentional and then it wouldn't be covered. We said, well, that's actually a good point, it should be a manmade act. And that's why the small changes were made. Nothing was intended to really change the scope of what needs to be done.

COMMISSIONER GAUTREAUX:

To add to that, John, I believe that one of the issues that we discussed for advantageous use was also natural resources, does it come in under any of those other headings.

COMMISSIONER ROUSSEL:

That was my question. What was the intent of putting that in? Maybe y'all are clarifying it by saying it was -- to catch everything that nobody thought of.

COMMISSIONER GAUTREAUX:

The Capital Area Legislation was passed, I guess, before a number of initiatives came up or we thought about different uses. Richard?

COMMISSIONER DURRETT:

If you have a multi-parish aquifer problem, do you advertise in each parish and do you have a hearing in each parish?

MR. DUPLÉCHIN:

Yes, sir.

MR. KILLEEN:

The one thing I might want to point out here, this is Mike Killeen again, in No. 4 where we had the various scale maps that might be presented, that was to reflect the understanding that some of these critical groundwater areas may, in fact, occur across parish lines, and we didn't want to limit people to a scale of map that was not appropriate. So we've considered that in doing this.

Also, as far as the information that will be available, we are going to make every attempt to put as much information that comes in out on the Ground Water Commission's web site. I've had some discussions with the GIS group at DEQ and here at DNR as to how we can make sure that things are out there in a consistent format that everybody can utilize. Since we haven't had an application yet, we'll have to just address those as they come, but we've tried to make provisions to be able to use digital data where possible, but we

didn't want to impact a person that didn't have access to providing digital data. So these are fairly standard map sources that anybody could have access to.

COMMISSIONER DURRETT:

But you mentioned maps from USGS or DOTD, or would you also allow if you have a local GIS that has a detailed map in digital form that to be used?

MR. KILLEEN:

I think for consistency purposes we would need to stay with a pretty standard USGS base or DOTD base. As you get into custom maps, you're not going to have the repeat ability. And I think some of the comments about metadata were appropriate last time. We have to try and make sure that the data sources we use are consistent and accurate. And I think it would serve the Commission well if they would limit the map sources used to something that could be reproduced readily and could be found readily in all the parishes.

COMMISSIONER GAUTREAUX:

Mike, wouldn't you think that most of the maps, say the work that the Sparta consultants are doing are based on USGS maps? I mean, I guess that's what we assume.

MR. KILLEEN:

We haven't reviewed those maps yet, and I'm sure that most of the people working in GIS are using some form of USGS map. We tried to have varied scales out here so it would be easy -- an easy source for people to get either in digital or hard copy form. Those that come in on hard copy, then we'll have to find a way to put them out in digital form.

COMMISSIONER GAUTREAUX:

Thank you. Fulbert?

COMMISSIONER NAMWAMBA:

I believe when we touched on this issue last time we talked about the Louisiana GIS Council, the interagency between the different government agencies, having defined some standards, some metadata standards, and that as long as the metadata standards fall within what the GIS Council has defined, then -- so I don't know what the follow-up was on defining digital.

MR. KILLEEN:

I had some discussions with both the DNR representative and the DEQ representative to the GIS Council, and the goal is to make sure that everything is consistent and it is fully supported.

COMMISSIONER GAUTREAUX:

Any other Commission comments or questions?

COMMISSIONER NAMWAMBA:

I think before we wound up there was a gentleman who asked about the issue of to who it may apply, and he said -- I think he mentioned something like this restricted it to the issue of just people within the area. I don't know what we concluded. We gave an answer to him, but I don't remember what that answer

was. I only mention it --

COMMISSIONER ASPRODITES:

I'm sorry. What's the question?

COMMISSIONER GAUTREAUX:

Addressing the issue of who could apply, were we limiting.

COMMISSIONER ASPRODITES:

No. In fact, that's why the comment is in No. 4 in the Notice of Hearing. The intent is that the Commission can take whatever action it believes is appropriate, but a third party can use these rules as well to make application.

COMMISSIONER GAUTREAUX:

Steve?

MR. CHUSTZ:

I just recommend that we allow for plural with the journals to make it clear that for multiparish areas that more than one notice is required, that it will be in each parish. I think that's the intent; right?

COMMISSIONER GAUTREAUX:

Right.

COMMISSIONER ASPRODITES:

Correct.

COMMISSIONER GAUTREAUX:

Thank you. Other Commission member comments or questions? (No response.) I will open it up to our Advisory Task Force members, if there are any here that would like to come forward. Again, the League of Women Voters has submitted written comments. Henry?

MR. GRAHAM:

Hello. My name is Henry Graham, and I represent the Louisiana Chemical Association. I would also like to echo a comment that was made earlier about being very careful to use definitions that are different than the ones statutorily defined. The ones in the Statute, I think, should take precedent. Certainly we didn't define every term in that legislation, but I think you should, at least for purposes of definitions, use the definitions that are in the Statute as a starting point. If you feel you need to make interpretations from that at a later date, then perhaps you can do that.

The second comment was, I guess I didn't quite hear the answer to one of the questions. Are you going to require a hearing in each parish of a multiparish critical area, or are you going to just designate a --

COMMISSIONER ASPRODITES:

The Statute requires that.

MR. GRAHAM:

-- locality? So that would be separate hearings in each parish if you had a five-parish area, as well as the notices?

COMMISSIONER ASPRODITES:

The Statute requires that, yes.

MR. GRAHAM:

I just wanted to confirm that. Thank you.

COMMISSIONER GAUTREAUX:

Steve?

MR. LEVINE:

I'm Steve Levine with the Association for Public Utilities. On page 2, top of the page, the last definition on groundwater emergency, did I hear y'all correctly, the clause, "or the likelihood of excessive pumping," that's an addition? Is that correct? Did I hear that right?

COMMISSIONER GAUTREAUX:

Yes.

MR. LEVINE:

I guess I would have a question about the intention of that addition and how that works with the definition as a whole. And the reason for my question has to do with the fact that that phrase has got some fairly open language in it. Words such as 'likelihood' and 'excessive,' which don't really have any real inherent definitions of their own, are part of this definition.

COMMISSIONER GAUTREAUX:

I was also understanding that there are a number of people who are reading this perhaps as three separate items. Go ahead, Su, why don't you -- Su King, House of Natural Resources.

MS. KING:

Su King with the House of Natural Resources Committee. I believe the way that this definition is being read is that the final phrase in the definition, "as a result of a natural force or a manmade act," is being read to apply only to the likelihood of excess pumping, not to the other two items listed in there. I believe the intention in that definition was that all three of those, the depletion of groundwater resources or lack of access to groundwater resources or the likelihood of excess pumping, all three of those would be as a result of the natural force or a manmade act. I think what we need to do, Steve, is just reword that to where it's clear that the result of a manmade force or natural act -- or natural force or manmade act would be applicable to all three of those items listed in there.

MR. LEVINE:

In the world we either have natural forces or manmade acts. So that pretty much covers everything; right?

MS. KING:

Yes, and we need to be able to deal with emergencies caused by either one.

MR. LEVINE:

And the word 'depletion' also strikes me as one that might use -- could use a little modification simply because of the fact that any use of a groundwater resource could involve depletion of it, but it's depletion of a certain character that is of interest here. It's a degree sort of thing. Thank

you.

COMMISSIONER GAUTREAUX:

Thank you. Any other comments from our Advisory Task Force members? (No response.) Well, in terms of making the change resulting from the separation of the three items that people were tending to read -- or there's evidently some interpretation of reading them altogether, could we address that by saying, "the likelihood of excessive pumping," instead of occurring, "any of which has or may occur as a result of a natural force or a manmade act," would that address that particular aspect of the concern?

COMMISSIONER ASPRODITES:

I think that's fine.

COMMISSIONER GAUTREAUX:

So we'll make that after excessive pumping, "any of which has or may occur."

MR. HANSON:

May I make a comment?

COMMISSIONER GAUTREAUX:

Come up to the mike, Brad.

MR. HANSON:

Brad Hanson, Louisiana Geological Survey, Advisory Task Force. On No. 10, if you lump all three of those things together, that means that a groundwater emergency has to meet all three of those criteria, and that may not be the case.

COMMISSIONER ASPRODITES:

It says 'or,' doesn't it?

COMMISSIONER GAUTREAUX:

I was interpreting the 'or' as the separator.

MR. HANSON:

Okay, so we're going to keep all three -- an emergency could meet either one of those three criteria?

COMMISSIONER GAUTREAUX:

Right.

MR. HANSON:

Okay. Then I'm confused. My apologies. I misunderstood.

COMMISSIONER GAUTREAUX:

Thank you. Any other Advisory Task Force comments or questions? (No response.)

What's the pleasure of the Commission?

COMMISSIONER SPICER:

I make a motion we accept the Rules.

COMMISSIONER GAUTREAUX:

As amended, as discussed. Thank you. Mr. Spicer makes a motion to adopt.

COMMISSIONER BOLOURCHI:

I second.

COMMISSIONER GAUTREAUX:

Mr. Bolourchi makes a second. Any objections? (No response.) I did it backwards. All in favor? (Aye.) Any objections? (No response.) Thank you. The next item is new business, and we're not going to

ask the Commission to take action on these items today but we'll discuss them in our next meeting. Tony Duplechin and Mike Killeen will handle these as well.
MR. DUPLCHIN:

Thank you, Ms. Chairman. Over the past six weeks the Staff has received more than 40 telephone calls concerning the information required to be submitted to the Commissioner of Conservation in accordance with Act 446. The topics of these calls centered around two concerns: the 60-day notification requirement, and what types of wells could be exempted from that requirement. In an attempt to address these concerns, the Staff would like to propose the following to the Commission for its consideration. Under exempt wells, Act 446 specifically exempts two types of well from the notification requirements: domestic wells and replacement wells. However, neither term is defined. We would like the following definitions to be considered for adoption by the Commission.

Domestic well: A water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include drinking, cooking, washing, sanitary purposes, lawn and garden watering, and caring for pets. We got this definition from Public Works at DOTD. For the purposes of the Commission, this would include wells used on private farms and ranches for the feeding and caring of pets and watering of lawns, excluding livestock, crops, and ponds.

I would like to have a replacement well defined as a well located within 1,000' of the original well as long as the replacement well is located within the same property boundary as the original well and is installed within the same aquifer over an equivalent interval with equivalent pumping rate -- not pumping rate, but well capacity. That was a change I forgot to make at the last minute.

COMMISSIONER ASPRODITES:

How would it read at the end?

MR. DUPLCHIN:

"Is installed within the same aquifer over an equivalent interval and with equivalent well capacity."
COMMISSIONER ASPRODITES:

So these are two terms that are used in the Act but are not defined; correct?

MR. DUPLCHIN:

Yes, sir. Another type of well that we feel should be exempted are drilling rig supply wells. The purpose of these wells is to provide water for making drilling mud for oil and gas exploration and development operations. They are usually short term and do not pump continuously.

Another term, another well that we feel may be considered for exemption are de-watering wells. One place de-watering wells are found is in the coal mining regions of Northwest Louisiana. In order to facilitate mining of lignite by surface mining methods using

draglines, it is often necessary to remove the water from shallow aquifers overlaying the lignite. The water is then discharged into surrounding streams.

No. 5, wells used for potable water supply at establishments such as bars, restaurants, hotels and motels not connected to a public water supply.

The final well we wish to be considered for exemption are environmental monitoring wells including environmental wells used for pump and treat remediation. While not specifically exempted, we would like to exempt these monitoring wells on the premise that the definition of a well or water well found in the Act states that a well or water well shall mean any well drilled or constructed for the principal purpose of producing ground water.

Wells that we would like the Commission to specifically say are not exempt are: public supply wells, that is, a system for providing piped water for human consumption to at least 15 service connections, or which regularly serves an average of at least 25 individuals daily and at least 60 days a year. This was taken from the Louisiana Ground Water Protection Strategy done by DEQ in July of 1998; irrigation, including farming, crops, and watering golf courses, cemeteries, parks, and livestock; aquaculture such as crawfish and catfish; power generation; industrial; and wells employed to fill ponds on farms and ranches.

COMMISSIONER GAUTREAUX:

Thank you, Tony. One thing I'd like to suggest, since we like to circulate our documents as much as possible, is maybe getting some kind of description for those that aren't familiar with drilling rig supplies and de-watering wells so that people would know the general -- even though people involved in that industry are very familiar with it, the general public probably would need to understand what those two terms mean. Any questions or comments from our Commission members? Brad?

COMMISSIONER SPICER:

Yes, Brad Spicer, Department of Agriculture and Forestry. The inclusion of -- under wells not exempt of livestock, I don't know why we would allow pets to have water and not livestock. So I think -- I'm not sure who developed this definition. Bo, did it come from DOTD?

MR. DUPLUCHIN:

I can address it. Up through where I said DOTD in that first definition on domestic well was what we had gotten from DOTD. That was the definition of domestic well from DOTD. The part after that for the purposes of the Commission we added in.

COMMISSIONER SPICER:

I'm concerned about having to -- you know, for watering livestock that we'd have to go through this process.

COMMISSIONER ASPRODITES:

You have to remember the whole purpose here is simply to exempt it from the 60-day prior notification. It doesn't exempt anything from the desires of the Commission, particularly in addressing critical groundwater areas. I assume the intent here was simply to identify those wells where the use is minimal versus the larger wells where we would like to see the continued registration on that prior 60-day notice.

COMMISSIONER SPICER:

Well, I still think it -- looking at irrigation water versus providing water for livestock is two different issues here.

COMMISSIONER BOLOURCHI:

For the purpose of registration of wells, Brad, it always has been included in irrigation. Irrigation has two subuses; I-S is for stock and I-Q for aquaculture. As far as being exempt or not exempt, that's another issue, but we always have included that in the category of irrigation.

COMMISSIONER SPICER:

I still would like to think that maybe we could put it up there in exempt wells, "livestock watering, not for other uses," if possible.

COMMISSIONER GAUTREAUX:

I would personally, Brad, would prefer not to change designations if they've been historically considered. All we're asking for is a 60-day notice, and I'm sure if there's an emergency we can deal with it if it's a replacement well for that person. But if it's a large enough well to water livestock, it's possibly something we would want to know about, especially when you start getting into critical area designation. I mean, I'd prefer that we be consistent, personally, I'd like to hear from the rest of the Commission, with the way that those wells have been defined previously.

COMMISSIONER SPICER:

There's quite a difference in watering an animal versus putting an inch of water on the landscape. A lot of difference.

COMMISSIONER BOLOURCHI:

But on the other hand, if you exempt stocks, then perhaps crawfish and catfish should be exempt as well.

COMMISSIONER SPICER:

Well, again, you're using water in a different manner there to raise crawfish than you are to water an animal in a trough, from a trough.

COMMISSIONER ASPRODITES:

Remember, all the Commission is really doing here is collecting data. It's not taking any action. It's not permitting anything. It's simply collecting data that the Commission may need to utilize in the future, particularly if someone comes forward or the Commission decides to review a critical groundwater, potential critical groundwater area.

COMMISSIONER GAUTREAUX:

John?

COMMISSIONER ROUSSEL:

Just a suggestion to maybe address the areas is maybe putting a threshold amount on the livestock so that if it's less than a certain number of livestock, it would be exempt, and only the larger type operators that would have a real major need for water that would fall under this umbrella. It's just a suggestion. Because I do see the problem that Brad points out. There are a lot of livestock owners that are small operators, have one or two animals, five animals, and I'm not sure we want to capture all of those people. But yet there are also operations that have large herds of animals that may have a more significant need for water.

COMMISSIONER GAUTREAUX:

What I would like to suggest on that particular issue is that we examine it between now and the next Commission meeting and perhaps come up with a recommendation at that time. Thank you. Len?

COMMISSIONER BAHR:

Len Bahr. I guess, Tony, I guess it was capture, but I just want to make sure. From my old days at DEQ when there was massive pumping to remove a contaminate in ground water, and such an operation is obviously in the public interest, I guess that's covered by what you said there.

MR. DUPLÉCHIN:

Yes, because if you really considered the issue of ground water as it is defined in the Act, it says water suitable for any beneficial purpose percolating below the earth's surface, and to put in a remediation well to pump out contaminated water would seemingly exclude that from the definition of groundwater.

COMMISSIONER GAUTREAUX:

Any other questions or comments?

COMMISSIONER BOLOURCHI:

Tony, so if there is a major contamination, under this provision, then, perhaps you can just pump the aquifer dry and that's okay? I'm trying to define between remediation of 4" monitor wells that hardly has any water versus -- I can understand what was said in here. The Ethyl Corporation many years ago, I think they are still pumping a lot of water out of the 400-600 Sand --

COMMISSIONER ASPRODITES:

You're saying that you don't think it should be exempted?

COMMISSIONER BOLOURCHI:

I'm not saying that. I just wanted to know, Commissioner --

COMMISSIONER ASPRODITES:

I would tend to agree with you.

COMMISSIONER BOLOURCHI:

If we're talking about remediation, we're talking about a small amount of water, 4" environmental well.

It looks like you began the sentence for environmental well, to most of us that means 4" monitoring wells, 20' deep. Now, if we do have contamination that would require pumping for 50 years at a rate of 2,000 gallons per minute, giving just some hypothetical case, are you saying that should be exempt from this or are you not saying that?

MR. DUPLECHIN:

No, not something of that magnitude.

COMMISSIONER ASPRODITES:

I guess that's something I should probably address in the next -- before the next meeting. I think that's a good point. And again, all we're trying to do is collect the data. We're not taking any other action right now.

COMMISSIONER BOLOURCHI:

I just wanted to make sure, Commissioner, that we understand what we are trying to exempt.

COMMISSIONER ASPRODITES:

That's a good point.

MR. KILLEEN:

Mr. Bolourchi, I believe those would probably be classified, and I may have the term wrong from DEQ, but I think those would be recovery wells, and certainly those should be probably considered as something that we should be notified on.

COMMISSIONER BOLOURCHI:

They may have that definition, but when I was involved in 1984, they called it pump and treat, treat and pump. We just need to know exactly what we're saying so we won't have any problem in the future. Thank you.

COMMISSIONER GAUTREAUX:

Any other Commission comments or questions? Len?

COMMISSIONER BAHR:

I almost hate to bring this up, and I'm not a swimming pool owner but I didn't hear swimming pools listed in the domestic uses. I don't know if that's --

MR. DUPLECHIN:

We discussed swimming pools this morning.

COMMISSIONER BOLOURCHI:

I can help you with that. If it is a public swimming pool, that water is considered public water system. If it's private, that falls under the domestic. So we consider it domestic on a private property, but if it's for the general public, that has to meet the health standard and it would be considered community public supply.

COMMISSIONER GAUTREAUX:

Any other comments, Commission members?

Questions? (No response.) We appreciate your input, and certainly between now and the next Management Commission you're welcome to ask more questions and submit more comments and we'll come back to you with these items, and the Task Force, of course.

I think those are the end of the new business items; correct? What I would like to do right now, if our Advisory Task Force members would like to comment on the discussion we just had, we would welcome your comments. (No response.) Are there any -- seeing no Advisory Task Force comments, are there any members of the general public that would like to make a statement or comment, ask a question? (No response.) All right. Well, our next item on the agenda is the schedule for the next meeting. I'm sorry. Fulbert?

COMMISSIONER NAMWAMBA:

Just an inquiry to the Chair. Would I suppose that we are not done? We have not finalized on the Rules of Procedure for hearings on the critical areas.

COMMISSIONER GAUTREAUX:

Yes, we did. We did vote.

COMMISSIONER NAMWAMBA:

Okay. So I just wanted to make a comment. My understanding that we will disregard the comments we got from the League of Women Voters in Louisiana?

COMMISSIONER GAUTREAUX:

No, and we can discuss those further, I guess, if you want. We've taken action but we'd be delighted to answer questions. A number of those comments were incorporated into the development of the Rules. Would you like to discuss the specifics? Are there any particular aspects?

COMMISSIONER NAMWAMBA:

It's just that I had not seen them before, and I went through them and I saw some useful suggestions, and I just wanted to know at what stage we are, whether we have passed them and we're not going to look at these.

COMMISSIONER GAUTREAUX:

We passed them, but we did examine those comments when we were compiling the final version to present to the Management Commission, and we can answer specific questions now with the whole Commission or we can review how they were incorporated, whatever your pleasure is.

COMMISSIONER NAMWAMBA:

That's fine with me, as long as you considered them, that's fine.

COMMISSIONER GAUTREAUX:

We did very much, and actually we incorporated a good number of them.

COMMISSIONER NAMWAMBA:

Just wanted to be sure that you looked at them and incorporated them.

COMMISSIONER ASPRODITES:

We should thank the League of Women Voters for taking the time to put together in three or four pages their comments and their thoughts that allowed us as we went through to have easy access to additional comments. That's always helpful.

MR. KILLEEN:

Mike Killeen again with the Office of Conservation. I might add that we had two sets of written comments, one from Mr. Brad Spicer, Department of Agriculture, and the comments by the League of Women Voters. We did endeavor to incorporate as much of those comments as we could.

COMMISSIONER GAUTREAUX:

Thank you. Let's talk about scheduling the next Ground Water Management Commission meeting. I would like to recommend that we hold one within the next month or so, which would put us in the week between the 17th and the 21st. Fulbert, your teaching days are Monday and Wednesday, or did I get it backwards?

COMMISSIONER NAMWAMBA:

My teaching days are Tuesdays and Thursdays.

COMMISSIONER GAUTREAUX:

So Monday, Wednesday, Friday were the days we needed to shoot for. Are there any -- how about Wednesday, the 19th, which would almost be a month from now, one day short? Are there any major conflicts among a large number of our -- well, okay, we'll try for the majority. I'll tell you what, how about if we circulate -- we'll shoot for that meeting the 17th -- all right. The morning -- well, Mr. Durrett -- well now we're thinking maybe the morning of the 17th.

COMMISSIONER DURRETT:

I'll be here.

COMMISSIONER GAUTREAUX:

The morning of the 17th, say 9:30? All right. We'll try for the 17th. We'll shoot for this room again, but we'll certainly get the location out in meeting notices. 9:30 in the morning on the 17th of September. Thank you all. We'll adjourn.

CERTIFICATE

I, SUZETTE M. MAGEE, Certified Court Reporter, do hereby certify that the foregoing meeting of the Louisiana Ground Water Management Commission was held on August 17, 2001, in the Mineral Board Hearing Room, Baton Rouge, Louisiana; that I did report the proceedings thereof; that the foregoing pages, numbered 1 through 48, inclusive, constitute a true and correct transcript of the proceedings thereof.

SUZETTE M. MAGEE, CCR #93079
CERTIFIED COURT REPORTER

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